



STATE OF DELAWARE
EXECUTIVE DEPARTMENT
OFFICE OF MANAGEMENT AND BUDGET
STATE PLANNING COORDINATION

December 23, 2005

Mr. Zachary Crouch
Davis, Bowen & Friedel
23 North Walnut Street
Milford, De 19963

RE: PLUS review – PLUS 2005-11-05; Estates of Double Run Creek

Dear Mr. Crouch:

Thank you for meeting with State agency planners on November 30, 2005 to discuss the proposed plans for the Estates of Double Run Creek project to be located southeast of the intersection of Irish Hill road and Sophers Row Road.

According to the information received, you are seeking site plan approval for 311 residential units on 151.74 acres.

Please note that changes to the plan, other than those suggested in this letter, could result in additional comments from the State. Additionally, these comments reflect only issues that are the responsibility of the agencies represented at the meeting. The developers will also need to comply with any Federal, State and local regulations regarding this property. We also note that as Kent County is the governing authority over this land, the developers will need to comply with any and all regulations/restrictions set forth by the County.

Executive Summary

The following section includes some site specific highlights from the agency comments found in this letter. This summary is provided for your convenience and reference. The full text of this letter represents the official state response to this project. ***Our office notes that the applicants are responsible for reading and responding to this letter and all comments contained within it in their entirety.***

State Strategies/Project Location

- This project is located in Investment Level 3 according to the *Strategies for State Policies and Spending*. This site is also located in the Kent County Growth Zone. Investment Level 3 reflects areas where growth is anticipated by local, county, and state plans in the longer term future, or areas that may have environmental or other constraints to development. State investments will support growth in these areas, but please be advised that the State may have other priorities in the near term future. We encourage you to design the site with respect for the environmental features which are present.

Street Design and Transportation

- While a TIS will not be required for this development, DelDOT will require that the developer improve Sophers Row to meet DelDOT's local road standards, which is to say 11-foot lanes and 5-foot shoulders, from Irish Hill Road to the west edge of the Chaselynd Hills subdivision.

Natural and Cultural Resources

- According to the application, all of the 27.13 acres of trees are going to be preserved. Therefore, there should be no lot lines, roadways or stormwater management ponds within the forested area. However, there are several lots that contain some forested area and subsequent landowner activities could result in clearing for sheds, play areas, swimming pools, etc. Currently, lot numbers 3-10 are partially located within a forested area that has very large, mature oak trees and may contain rare plants. Moving the lot lines out of the forested area should be considered and property boundaries clearly marked so that clearing does not occur. The majority of forest is along Double Run, which is important for water quality and provides habitat and travel corridors for wildlife. In the current site plan, lot numbers 46-48, and 53-55 contain some of this forested area, again moving the lot lines out of the forested area should be considered. This forested buffer should be placed in permanent conservation so that future clearing is less likely to occur.

The following are a complete list of comments received by State agencies:

Office of State Planning Coordination – Contact: David Edgell 739-3090

This project is located in Investment Level 3 according to the *Strategies for State Policies and Spending*. This site is also located in the Kent County Growth Zone. Investment

Level 3 reflects areas where growth is anticipated by local, county, and state plans in the longer term future, or areas that may have environmental or other constraints to development. State investments will support growth in these areas, but please be advised that the State may have other priorities in the near term future. We encourage you to design the site with respect for the environmental features which are present.

Division of Historic and Cultural Affairs – Contact: Alice Guerrant 739-5685

This parcel contains the Mrs. Chambers House (K-2698; on Beers Atlas of 1868), and a prehistoric site (K-612). There is another prehistoric site (K-611) that is probably partially within this parcel. The Mrs. Chambers House was demolished some time ago, prior to the planning of this development. There may be archaeological remains surviving associated with this house.

Small, rural, family cemeteries often are found in relation to historic farm complexes, usually a good distance from the house. The developer should be aware of Delaware's Unmarked Human Remains Act of 1987, which governs the discovery and disposition of such remains. The unexpected discovery of unmarked human remains during construction can result in significant delays while the process is carried out. The DHCA will be happy to discuss these issues with the developer; the contact person for this program is Faye Stocum, 302-736-7400.

They request the opportunity to look for the archaeological sites and learn something about their extent and nature before any ground-disturbing activities take place.

Department of Transportation – Contact: Bill Brockenbrough 760-2109

- 1) On September 15, 2005, DelDOT wrote to the developer's engineer to confirm that they would not require that a traffic impact study (TIS) for this development. However, in that same letter DelDOT informed them that participation in road improvements might still be required of this developer. A copy of the letter is enclosed. TIS have been done for other, larger developments in this area, notably Chaselynd Hills (formerly the Webb Property). DelDOT anticipates identifying a set of road improvements this developer should do or participate in from those required for the development just mentioned. Preliminarily, DelDOT will require that the developer improve Sophers Row to meet DelDOT's local road standards, which is to say 11-foot lanes and 5-foot shoulders, from Irish Hill Road to the west edge of the Chaselynd Hills subdivision.
- 2) As just mentioned, Sophers Row is classified as a local road. Local roads in Delaware typically have right-of-way widths ranging from 33 to 50 feet.

DelDOT's policy is to require dedication of sufficient land to provide a minimum right-of-way width of 30 feet from the centerline on local roads. Therefore we will require right-of-way dedication along the frontage to provide any additional width needed from this project.

- 3) DelDOT will also require that a paved multi-modal path, located in a 15-foot wide permanent easement, be provided across the frontage of the site.
- 4) DelDOT commends the developer for providing the proposed connection to the Hunters Ridge subdivision. This connection would provide some residents of the proposed development with a more direct route to Irish Hill Road than traveling to and along Sophers Row. Accordingly they recommend that the developer be required to set aside funds for a period of at least one year beyond the completion of the proposed development for the provision of traffic calming in Hunters Ridge if the residents should request it.
- 5) The developer's site engineer should contact Mr. Brad Herb, the project manager for Kent County, regarding our specific requirements for streets and access. He may be reached at (302) 266-9600.

**The Department of Natural Resources and Environmental Control – Contact:
Kevin Coyle 739-9071**

Soils

Based on the Kent County soil survey Sassafras, Rumford, Woodstown, and Johnston were mapped in the immediate vicinity of the proposed project. Sassafras and Rumford are well-drained upland soils that, generally, have few limitations for development. Woodstown is a moderately well-drained soil of low-lying uplands that has moderate limitations for development. Johnston is a very poorly-drained wetland associated (hydric) floodplain soil that has the highest severity level for development.

Wetlands and Water Bodies

Statewide Wetland Mapping Project (SWMP) maps indicate the presence palustrine wetlands. PLUS materials indicate that there will not be direct impacts to these wetlands through construction activities; however, secondary impacts of construction could be detrimental to the health of these wetlands and their associated streams. It is strongly recommended that the developer conduct a wetland field delineation, in accordance with the methodology established by the Corps of Engineers Wetlands Delineation Manual

(Technical Report Y-87-1). Once complete, this delineation should be verified by the Corps of Engineers through the Jurisdictional Determination process.

If impacts are anticipated, please note that Palustrine wetlands are regulated by the Army Corps of Engineers through Section 404 of the Clean Water Act. In situations where the applicant believes that the delineated wetlands on their parcel are nonjurisdictional isolated wetlands, the Corps must be contacted to make the final jurisdictional assessment. They can be reached by phone at 736-9763.

In addition, individual 404 permits and certain Nationwide Permits from the Army Corps of Engineers also require 401 Water Quality Certification from the DNREC Wetland and Subaqueous Land Section and Coastal Zone Federal Consistency Certification from the DNREC Division of Soil and Water Conservation, Delaware Coastal Programs Section. Each of these certifications represents a separate permitting process.

To find out more about permitting requirements, the applicant is encouraged to attend a Joint Permit Process Meeting. These meetings are held monthly and are attended by federal and state resource agencies responsible for wetland permitting. Contact Denise Rawding at (302) 739-9943 to schedule a meeting.

Impervious Cover

Research has consistently shown that once a watershed exceeds a threshold of 10 percent imperviousness, water and habitat quality irreversibly decline. Based on analyses of 2002 aerial photography by the University of Delaware, the Murderkill watershed, at that time, had about 8.1 percent impervious cover. Although this data is almost 4 years old and likely an underestimate - it illustrates the importance of a proactive strategy to mitigate for predictable and likely cumulative environmental impacts. Since the amount of imperviousness generated by this project (reported as 14%, but likely to be significantly higher) above the desirable watershed threshold of 10 percent, the applicant is strongly advised to pursue best management practices (BMPs) that mitigate or reduce some of the most likely adverse impacts. Reducing the amount of surface imperviousness through the use of pervious paving materials ("pervious pavers") in lieu of asphalt or concrete in conjunction with an increase in forest cover via preservation or additional tree plantings – are examples of practical BMPs that could easily be implemented to reduce surface imperviousness.

TMDLs

With the adoption of Total Maximum Daily Loads (TMDLs) as a "nutrient-runoff-mitigation strategy" for reducing nutrients in the Murderkill River watershed, reduction of nitrogen and phosphorus loading will be mandatory. A TMDL is the maximum level

of pollution allowed for a given pollutant below which a “water quality limited water body” can assimilate and still meet water quality standards to the extent necessary to support use goals such as, swimming, fishing, drinking water and shell fish harvesting. Nutrient reductions prescribed under TMDLs are assigned to those watersheds or basins on the basis of recognized water quality impairments. In the Murderkill watershed, the primary source of water quality impairment is associated with nutrient runoff from agricultural and/or residential development. In order to mitigate the aforementioned impairments, a TMDL reduction level of 50 and 30 percent will be required for nitrogen and phosphorus, respectively. Documentation of the compliance with post-development TMDL nutrient load reductions will be assessed via nutrient budget protocol. The nutrient budget protocol utilizes a computer-based model to quantify post-development nutrient loading under a variety of land use scenarios in combination with a variety (or absence) of BMP types and intensities. This post-development loading rate is then compared with the pre-development loading rate as a means to assess whether the project meets the acceptable TMDL reduction levels. We request that the applicant obtain this nutrient budget protocol to calculate whether their development meets the TMDL nutrient reductions. Please contact Lyle Jones at 739-9939 for further information about obtaining this protocol.

Water Supply

The project information sheets state water will be provided to the project by Artesian Water Company via a central water system. DNREC records indicate that the project is located within the public water service area granted to Artesian Water Company under Certificate of Public Convenience and Necessity 03-CPCN-22.

Should dewatering points be needed during any phase of construction, a dewatering well construction permit must be obtained from the Water Supply Section prior to construction of the well points. In addition, a water allocation permit will be needed if the pumping rate will exceed 50,000 gallons per day at any time during operation.

All well permit applications must be prepared and signed by licensed water well contractors, and only licensed well drillers may construct the wells. Please factor in the necessary time for processing the well permit applications into the construction schedule. Dewatering well permit applications typically take approximately four weeks to process, which allows the necessary time for technical review and advertising.

Should you have any questions concerning these comments, please contact Rick Rios at 302-739-9944.

Sediment and Erosion Control/Stormwater Management

Requirements:

1. Land disturbing activities in excess of 5,000 square feet are regulated under the Delaware Sediment and Stormwater Regulations. A detailed sediment and stormwater management plan must be reviewed and approved by our office prior to any land disturbing activity (i.e. clearing, grubbing, filling, grading, etc.) taking place.
2. The review fee and a completed Application for a Detailed Plan are due at the time of plan submittal to our office. Construction inspection fees based on developed area and stormwater facility maintenance inspection fees based on the number of stormwater facilities are due prior to the start of construction. Please refer to the fee schedule for those amounts.

Comments:

1. A soils investigation supporting the stormwater management facility design is required to determine impacts of the seasonal high groundwater level and soils for any basin design.
2. Ease of maintenance must be considered as a site design component and a maintenance set aside area for disposal of sediments removed from the basins during the course of regular maintenance should be shown on the Record Plan for the subdivision.
3. Access to the proposed stormwater facility must be provided for periodic maintenance. This access should be at least 12 feet wide to leading to the facility and around the facility's perimeter.
4. All drainage ways and storm drains should be contained within drainage easements and clearly shown on the plan to be recorded by Kent County.
5. It is recommended that the stormwater management areas be incorporated into the overall landscape plan to enhance water quality and to make the stormwater facility an attractive community amenity.
6. A clear statement of defined maintenance responsibility for stormwater management facilities must be provided on the Record Plan.

7. The following notes must appear on the record plan
 - The Kent Conservation District reserves the right to enter private property for purposes of periodic site inspection.
 - The Kent Conservation District reserves the right to add, modify, or delete any erosion or sediment control measure, as it deems necessary.
8. A letter of no objection to recordation will be provided once the detailed Sediment and Stormwater Management plan has been approved.
9. Proper drainage of developed lots and active open space should be considered in the development of the grading plan for this subdivision.
10. Based on the site characteristics, a pre-application meeting is suggested to discuss stormwater management and drainage for this site.

Drainage

The Drainage Program requests the engineer take precautions to ensure the project does not hinder any off site drainage upstream of the project or create any off site drainage problems downstream by the release of on site storm water. The Drainage Program requests the engineer check existing downstream ditches and pipes for function and blockages prior to construction. Please notify downstream landowners if there will be a change in the volume of water released on them.

The Drainage Program encourages the elevation of rear yards to direct water towards the streets where storm drains are accessible for maintenance. The Drainage Program recognizes the need for catch basins in rear yards in certain cases. Catch basins placed in rear yards will need to be clear of obstructions and be accessible for maintenance. Decks, sheds, fences, and kennels should not be placed along the storm drain or near the catch basin. Deed restrictions or easements recorded on the deed, should be placed on the property to ensure maintenance access.

This project is within the Murderkill River Watershed, a designated critical area, with a promulgated Total Maximum Daily Load (TMDL). Preserve existing riparian buffers to aid in the reduction of nutrients, sediment, and other pollutants. For the further enhancement of water quality in the Murderkill watershed, the Drainage Program encourages additional widths of vegetated buffers and other water quality measures on

this project. Please explore the use of a created wetland to filter excess nutrients in stormwater runoff from this site before releasing stormwater into Double Run.

Floodplains

Portions of the proposed project are located within the 100-year floodplain. It is recommended that development be limited to those areas which are outside of the 100-year floodplain.

Forest Preservation

According to the application, all of the 27.13 acres of trees are going to be preserved. Therefore, there should be no lot lines, roadways or stormwater management ponds within the forested area. However, there are several lots that contain some forested area and subsequent landowner activities could result in clearing for sheds, play areas, swimming pools, etc. Currently, lot numbers 3-10 are partially located within a forested area that has very large, mature oak trees and may contain rare plants. Moving the lot lines out of the forested area should be considered and property boundaries clearly marked so that clearing does not occur. The majority of forest is along Double Run, which is important for water quality and provides habitat and travel corridors for wildlife. In the current site plan, lot numbers 46-48, and 53-55 contain some of this forested area, again moving the lot lines out of the forested area should be considered. This forested buffer should be placed in permanent conservation so that future clearing is less likely to occur.

Open Space

To maximize the existing buffering capacity and wildlife habitat on site, it is recommended that lot lines and other infrastructure (such as storm water management ponds) be pulled out of the forest and that areas of community open space be designated along the forested/riparian areas. Doing so will accomplish two things: it will preserve and expand the existing riparian buffers on site and its value for birds and wildlife and it will create recreational opportunities for residents by allowing them access to and views of the forest and stream.

In areas set aside for passive open space, the developer is encouraged to consider establishment of additional forested areas or meadow-type grasses. Once established, these ecosystems provide increased water infiltration into groundwater, decreased run-off into surface water, air quality improvements, and require much less maintenance than traditional turf grass, an important consideration if a homeowners association will take over responsibility for maintenance of community open spaces.

Open space containing forest and/or wetlands should be placed into a permanent conservation easement or other permanent protection mechanism. Conservation areas should also be demarked to avoid infringement by homeowners.

Nuisance Waterfowl

Stormwater management ponds that remain in the site plan may attract waterfowl like resident Canada geese and mute swans. High concentrations of waterfowl in ponds create water-quality problems, leave droppings on lawn and paved areas and can become aggressive during the nesting season. Short manicured lawns around ponds provide an attractive habitat for these species. We recommend native plantings of tall grasses, wildflowers, shrubs, and trees at the edge and within a buffer area (50 feet) around the perimeter. Waterfowl do not feel safe when they can not see the surrounding area for possible predators. These plantings should be completed as soon as possible as it is easier to deter geese when there are only a few than it is to remove them once they become plentiful. The Division of Fish and Wildlife does not provide goose control services, and if problems arise, residents or the home-owners association will have to accept the burden of dealing with these species (e.g., permit applications, costs, securing services of certified wildlife professionals). Solutions can be costly and labor intensive; however, with proper landscaping, monitoring, and other techniques, geese problems can be minimized.

Natural Areas Inventory

This project contains land currently listed on Delaware's Natural Areas Inventory. Natural Areas contain lands of statewide significance identified by the Natural Area Advisory Council as the highest quality and most important natural lands remaining in Delaware. Consideration should be given to protecting these resources during design and construction of this project. The developer should investigate dedicating the Natural Area as a Nature Preserve through a conservation easement or donation of land. For more information, please contact the Office of Nature Preserves at 739-9235.

Recreation

We recommend that sidewalks be built fronting at least one side of residential streets and stub streets. A complete system of sidewalks will: 1) fulfill the recreation need for walking and biking facilities, 2) provide opportunities for neighbors to interact in the community, and 3) facilitate safe, convenient off-road access to neighboring communities, parks, public mass transit stops, schools, stores, work, etc.

Solid Waste

Each Delaware household generates approximately 3,600 pounds of solid waste per year. On average, each new house constructed generates an additional 10,000 pounds of construction waste. Due to Delaware's present rate of growth and the impact that growth will have on the state's existing landfill capacity, the applicant is requested to be aware of the impact this project will have on the State's limited landfill resources and, to the extent possible, take steps to minimize the amount of construction waste associated with this development.

Air Quality

Once complete, vehicle emissions associated with this project are estimated to be 23.9 tons (47,735.3 pounds) per year of VOC (volatile organic compounds), 19.8 tons (39,521.6 pounds) per year of NO_x (nitrogen oxides), 14.6 tons (29,159.7 pounds) per year of SO₂ (sulfur dioxide), 1.3 ton (2,595.7 pounds) per year of fine particulates and 1,996.5 tons (3,992,993.2 pounds) per year of CO₂ (carbon dioxide).

Emissions from area sources associated with this project are estimated to be 9.6 tons (19,253.8 pounds) per year of VOC (volatile organic compounds), 1.1 ton (2,118.5 pounds) per year of NO_x (nitrogen oxides), 0.9 ton (1,758.1 pounds) per year of SO₂ (sulfur dioxide), 1.1 ton (2,268.7 pounds) per year of fine particulates and 39.0 tons (78,050.6 pounds) per year of CO₂ (carbon dioxide).

Emissions from electrical power generation associated with this project are estimated to be 3.8 tons (7,630.8 pounds) per year of NO_x (nitrogen oxides), 13.3 tons (26,542.0 pounds) per year of SO₂ (sulfur dioxide) and 1,957.5 tons (3,914,942.6 pounds) per year of CO₂ (carbon dioxide).

	VOC	NO _x	SO ₂	PM _{2.5}	CO ₂
Mobile	23.9	19.8	14.6	1.3	1996.5
Residential	9.6	1.1	0.9	1.1	39.0
Electrical Power		3.8	13.3		1957.5
TOTAL	33.5	24.7	28.8	2.4	3993.0

For this project the electrical usage via electric power plant generation alone totaled to produce an additional 3.8 tons of nitrogen oxides per year and 13.3 tons of sulfur dioxide per year.

A significant method to mitigate this impact would be to require the builder to construct Energy Star qualified homes. Every percentage of increased energy efficiency translates into a percent reduction in pollution. Quoting from their webpage, <http://www.energystar.gov/>:

“ENERGY STAR qualified homes are independently verified to be at least 30% more energy efficient than homes built to the 1993 national Model Energy Code or 15% more efficient than state energy code, whichever is more rigorous. These savings are based on heating, cooling, and hot water energy use and are typically achieved through a combination of:

building envelope upgrades,
high performance windows,
controlled air infiltration,
upgraded heating and air conditioning systems,
tight duct systems and
upgraded water-heating equipment.”

The energy office in DNREC is in the process of training builders in making their structures more energy efficient. The Energy Star Program is excellent way to save on energy costs and reduce air pollution. We highly recommend this project development and other residential proposals increase the energy efficiency of their homes.

They also recommend that the home builders offer geothermal and photo voltaic energy options. Applicable vehicles should use retrofitted diesel engines during construction. The development should provide tie-ins to the nearest bike paths, links to mass transit, and fund a lawnmower exchange program for their new occupants.

State Fire Marshal’s Office – Contact: John Rossiter 739-4394

These comments are intended for informational use only and do not constitute any type of approval from the Delaware State Fire Marshal’s Office. At the time of formal submittal, the applicant shall provide; completed application, fee, and three sets of plans depicting the following in accordance with the Delaware State Fire Prevention Regulation (DSFPR):

- a. **Fire Protection Water Requirements:**
 - Water distribution system capable of delivering at least 1000 gpm for 1-hour duration, at 20-psi residual pressure is required. Fire hydrants with 800 feet spacing on centers. (Assembly)

- Where a water distribution system is proposed for single family dwellings it shall be capable of delivering at least 500 gpm for 1-hour duration, at 20-psi residual pressure. Fire hydrants with 1000 feet spacing on centers are required. (One & Two- Family Dwelling)
- Where a water distribution system is proposed for the site, the infrastructure for fire protection water shall be provided, including the size of water mains for fire hydrants and sprinkler systems.

b. **Fire Protection Features:**

- All structures over 10,000 Sq. Ft. aggregate will require automatic sprinkler protection installed.
- Buildings greater than 10,000 sq.ft., 3-stories of more or over 35 feet, or classified as High Hazard, are required to meet fire lane marking requirements.
- Show Fire Department Connection location (Must be within 300 feet of fire hydrant), and detail as shown in the DSFPR.
- Show Fire Lanes and Sign Detail as shown in DSFPR

c. **Accessibility**

- All premises which the fire department may be called upon to protect in case of fire, and which are not readily accessible from public roads, shall be provided with suitable gates and access roads, and fire lanes so that all buildings on the premises are accessible to fire apparatus. This means that the access road to the subdivision from Sophers Row must be constructed so fire department apparatus may negotiate it.
- Fire department access shall be provided in such a manner so that fire apparatus will be able to locate within 100 ft. of the front door.
- Any dead end road more than 300 feet in length shall be provided with a turn-around or cul-de-sac arranged such that fire apparatus will be able to turn around by making not more than one backing maneuver. The minimum paved radius of the cul-de-sac shall be 38 feet. The dimensions of the cul-de-sac or turn-around shall be shown on the final plans. Also, please be advised that parking is prohibited in the cul-de-sac or turn around.
- The use of speed bumps or other methods of traffic speed reduction must be in accordance with Department of Transportation requirements.
- The local Fire Chief, prior to any submission to our Agency, shall approve in writing the use of gates that limit fire department access into and out of the development or property.

d. **Gas Piping and System Information:**

- Provide type of fuel proposed, and show locations of bulk containers on plan.
- e. **Required Notes:**
 - Provide a note on the final plans submitted for review to read “ All fire lanes, fire hydrants, and fire department connections shall be marked in accordance with the Delaware State Fire Prevention Regulations”
 - Proposed Use
 - Alpha or Numerical Labels for each building/unit for sites with multiple buildings/units
 - Square footage of each structure (Total of all Floors)
 - National Fire Protection Association (NFPA) Construction Type
 - Maximum Height of Buildings (including number of stories)
 - Note indicating if building is to be sprinklered
 - Name of Water Provider
 - Letter from Water Provider approving the system layout
 - Provide Lock Box Note (as detailed in DSFPR) if Building is to be sprinklered
 - Provide Road Names, even for County Roads

Preliminary meetings with fire protection specialists are encouraged prior to formal submittal. Please call for appointment. Applications and brochures can be downloaded from our website: www.delawarestatefiremarshal.com, technical services link, plan review, applications or brochures.

Department of Agriculture - Contact: Milton Melendez 698-4500

Neither the Delaware Department of Agriculture nor the Delaware Forest Service has any objections to the Estates at Double Run Creek application. The site is located on a long-range designated controlled development area. The *Strategies for State Policies and Spending* encourages environmentally responsible development in areas within a Growth Level 3 Zone. We request that you consider limiting impervious cover as much as possible when designing this site. This site is a part of a “good recharge” area. The State of Delaware has mapped all ground water potential recharge areas. A “good” rating is the second highest rating and designates an area as having important groundwater recharge qualities. Maintaining pervious cover in “Excellent” and “Good” recharge areas is crucial for the overall environmental health of our state and extremely important to efforts which ensure a safe drinking water supply for future generations. Retention of pervious cover to ensure an adequate future water supply is also important for the future viability of

agriculture in the First State. The loss of every acre of land designated as “excellent” and “good” recharge areas adversely impacts the future prospects for agriculture in Delaware.

This subdivision shares its northern boundary with the Emil Gallo/Ruth L. Gallo Agricultural District, this property is in the State of Delaware’s Farmland Preservation Program; the below restrictions will apply to any development within 50 feet of any Agricultural Districts or Easements. Please see Delaware Code Title 3, Chapter 9, Subchapter II, Section 910.

§ 910. Agricultural use protections.

(a) Normal agricultural uses and activities conducted in a lawful manner are preferred and priority uses and activities in Agricultural Preservation Districts. In order to establish and maintain a preference and priority for such normal agricultural uses and activities and avert and negate complaints arising from normal noise, dust, manure and other odors, the use of agricultural chemicals and nighttime farm operations, land use adjacent to Agricultural Preservation Districts shall be subject to the following restrictions:

(1) For any new subdivision development located in whole or in part within 300 feet of the boundary of an Agricultural Preservation District, the owner of the development shall provide in the deed restrictions and any leases or agreements of sale for any residential lot or dwelling unit the following notice:

This property is located in the vicinity of an established Agricultural Preservation District in which normal agricultural uses and activities have been afforded the highest priority use status. It can be anticipated that such agricultural uses and activities may now or in the future involve noise, dust, manure and other odors, the use of agricultural chemicals and nighttime farm operations. The use and enjoyment of this property is expressly conditioned on acceptance of any annoyance or inconvenience which may result from such normal agricultural uses and activities."

(2) For any new subdivision development located in whole or in part within 50 feet of the boundary of an Agricultural Preservation District, no improvement requiring an occupancy approval shall be constructed within 50 feet of the boundary of the Agricultural Preservation District.

(b) Normal agricultural uses and activities conducted in accordance with good husbandry and best management practices in Agricultural Preservation Districts shall be deemed protected actions and not subject to any claim or

complaint of nuisance, including any such claims under any existing or future county or municipal code or ordinance. In the event a formal complaint alleging nuisance related to normal agricultural uses and activities is filed against an owner of lands located in an Agricultural Preservation District, such owner, upon prevailing in any such action, shall be entitled to recover reasonably incurred costs and expenses related to the defense of any such action, including reasonable attorney's fees (68 Del. Laws, c. 118, § 2.).

Right Tree for the Right Place

The Delaware Department of Agriculture Forest Service encourages the developer to use the “Right Tree for the Right Place” for any design considerations. This concept allows for the proper placement of trees to increase property values in upwards of 25% of appraised value and will reduce heating and cooling costs on average by 20 to 35 dollars per month. In addition, a landscape design that encompasses this approach will avoid future maintenance cost to the property owner and ensure a lasting forest resource.

Native Landscapes

The Delaware Department of Agriculture and the Delaware Forest Service encourages the developer to use native trees and shrubs to buffer the property from the adjacent land-use activities near this site. A properly designed forested buffer can create wildlife habitat corridors and improve air quality to the area by removing six to eight tons of carbon dioxide annually and will clean our rivers and creeks of storm-water run-off pollutants. To learn more about acceptable native trees and how to avoid plants considered invasive to our local landscapes, please contact the Delaware Department of Agriculture Plant Industry Section at (302) 698-4500.

Tree Mitigation

The Delaware Forest Service encourages the developer to implement a tree mitigation program to replace trees at a 1:1 ratio within the site and throughout the community. This will help to meet the community’s forestry goals and objectives and reduce the environmental impacts to the surrounding natural resources. To learn more, please contact our offices at (302) 349-5754.

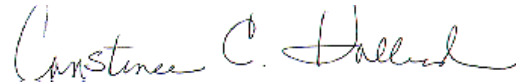
Public Service Commission - Contact: Andrea Maucher 739-4247

Any expansion of natural gas or installation of a closed propane system must fall within Pipeline Safety guidelines. Contact: Malak Michael at (302) 739-4247.

Following receipt of this letter and upon filing of an application with the local jurisdiction, the applicant shall provide to the local jurisdiction and the Office of State Planning Coordination a written response to comments received as a result of the pre-application process, noting whether comments were incorporated into the project design or not and the reason therefore.

Thank you for the opportunity to review this project. If you have any questions, please contact me at 302-739-3090.

Sincerely,

A handwritten signature in cursive script that reads "Constance C. Holland".

Constance C. Holland, AICP
Director

CC: Kent County
Frederica